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Transcript of Hearing

Date: December 13, 2019
Case: Depp, II -v- Heard

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V I R G I N I A:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

-----X

JOHNNY C. DEPP, II,)

Plaintiff,)

-vs-) NO. CL-2019-0002911

AMBER LAURA HEARD,)

Defendant.)

-----X

Hearing

BEFORE THE HONORABLE BRUCE D. WHITE

Fairfax, Virginia

Friday, December 13, 2019

11:00 a.m.

Job No.: 277957

Pages: 1 - 32

Reported by: Theresa R. Hollister, CCR

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Hearing held at:

Fairfax County Circuit Court
4110 Chain Bridge Road
Courtroom 5D
Fairfax, Virginia 22030
(703) 691-7320

Pursuant to notice, before Theresa R.
Hollister, Certified Court Reporter and Notary
Public for the Commonwealth of Virginia.

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A P P E A R A N C E S

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P R O C E E D I N G S

(Court reporter duly sworn by the Court.)

THE COURT: Would everybody please note their appearances for the record.

MR. CHEW: Good morning, Your Honor. May it please the court. Ben Chew for Plaintiff Johnny Depp.

MR. ROTTENBORN: Good morning, Your Honor. Ben Rottenborn from Woods Rogers here on behalf of Defendant Amber Heard.

MR. QUINN: Good morning, Your Honor. John Quinn from Kaplan Hecker on behalf of Ms. Heard.

THE COURT: Good morning. All right.

MR. CHEW: As the court is aware, Your Honor, we are here on Mr. Depp's motion to use the testimony of Melissa Saenz and Tyler Hadden, officers of the L.A.P.D. force. As Your Honor is aware from the papers, both testified on July 18th, 2016, which was less than 2 months after the court incident at issue, both in the divorce case and in this defamation case, which is what happened on May

1 21, 2016, at the Eastern Columbia Apartments. Their
2 testimony, Your Honor, was at the heart of the core
3 issues in the divorce case and the defamation
4 action, i.e., whether Mr. Depp physically abused
5 Ms. Heard on the evening of May 21, 2016.

6 The fact that that was the issue in the
7 divorce case is clearly evidenced by Exhibit C to
8 our moving papers. This is the original letter the
9 court has read. I will just quote from it. It's a
10 letter from Ms. Heard's lawyer, Samantha Spector,
11 who I think we all agree or it's well-known that she
12 is the top or one of the very top family law
13 practitioners in Los Angeles. This was her first
14 correspondence to Mr. Depp's then counsel, Jacob
15 Bloom of the former firm of Bloom Hergott. And this
16 is dated May 24th, 2016, which is only 3 days --
17 it's Tuesday after the Saturday night alleged
18 incident. And she writes, "Please be advised that
19 our firm has filed a petition for dissolution of
20 marriage on behalf of Amber Heard -- Amber Depp."

21 "As you may be aware, your client and
22 Amber's husband, Johnny Depp, violently attacked and

1 threatened Amber on Saturday night, May 21st, in
2 their penthouse apartment, located at 849 South
3 Broadway. There are several witnesses to this
4 particular incident. There are photographs
5 depicting the property damage Johnny caused and the
6 physical injuries he inflicted on her."

7 That was the first notice to Mr. Depp of
8 these divorce proceedings. She then proceeds to ask
9 for all three penthouses in the building, an
10 automobile, pendente lite compensation, and
11 immediate payment to Ms. Spector of \$100,000 before
12 the end of the week, which Mr. Depp, in fact,
13 provided.

14 THE COURT: I want you to try -- and I
15 will just tell both of you, I'd like to focus in
16 your arguments on things that relate to what we're
17 doing. Even after our last hearing in chambers,
18 things were done that were not what I was
19 represented by counsel were going to be done by way
20 of the press. So we don't need to make statements
21 and arguments that are later on going to be used in
22 the press. So we're going to just stop doing that.

1 So what I'd like to you maybe focus on is
2 their argument that because the divorce was a month
3 before it was going to be settled and they were
4 getting things resolved, the cross-examination of
5 these officers was minimal and was confined
6 basically to asking about a third party and what
7 color of hair Ms. Heard had that night. So they say
8 it's ineffective cross-examination.

9 MR. CHEW: It is not, Your Honor. And if
10 I could go back very quickly. And I take the
11 court's admonition and I will now address precisely
12 what is at issue in the motion. I don't think
13 there's any serious question that the three criteria
14 of Rule 4:7 are met. One, that it's undisputed the
15 officers, who have since been transferred, are more
16 than 100 miles outside of the Commonwealth. They
17 still serve in the Los Angeles Police Department. I
18 don't think it's contested -- and I will get to Your
19 Honor's specific point -- that the depositions
20 involve the very same subject matter here. Third,
21 it's uncontested that the divorce involves the very
22 same parties who are at issue here.

1 Ms. Heard admits that she was represented
2 very ably at those depositions by Samantha Spector.
3 And in direct answer to the court's question, there
4 is no requirement that there be cross-examination.
5 As Your Honor knows far better than I, sometimes the
6 best cross-examination is no cross-examination or a
7 limited cross-examination.

8 Their contention, as I understand it, is
9 that this issue was resolved. It was not at all
10 resolved. It was a very hot issue. It was the
11 issue. I can't speak for Ms. Spector, but you had
12 very probative testimony within 2 months of the
13 incident, given by two police officers, consistent
14 with their reports. I don't know what
15 cross-examination you could do that wouldn't make
16 your client's situation worth -- worse. Strike
17 that. I don't know what cross-examination you could
18 possibly do that would make your client's situation
19 better. She was willing to go to bat with her own
20 testimony and that of her friends. But it was not
21 at all a resolved issue and it wasn't at all clear
22 that the case was going to settle at the time.

1 And to directly address Your Honor's
2 point, Ms. Spector did conduct cross-examination or
3 redirect at pages 36 through 37 of Officer Saenz's
4 deposition. And I will concede it was limited.

5 Officer Saenz, as the court has read, was
6 the lead officer. She had had -- she had done more
7 than 100 domestic relations complaints in her
8 career. So that was the key deposition. And what
9 made her even more credible was that she testified
10 she didn't even know that it involved Johnny Depp
11 and Amber Heard. She interviewed Ms. Depp. She
12 physically inspected her face, which was crucial to
13 this case, because it's Ms. Heard's contention that
14 she had visible marks and swelling at the time. The
15 officer did a very thorough examination that night
16 and found nothing.

17 She did object vocif- -- you either
18 object or you don't. She commented or objected at
19 pages 8, 11, 12, 26, 27, 29, 38, and 39. These are
20 trial objections, Your Honor. So I would submit
21 that if this were a resolved issue, she wouldn't
22 have been objecting and preserving her client's

1 right to keep those particular portions out.

2 Similarly, at Officer Hadden's
3 deposition, which is Exhibit B, Officer Hadden was
4 the junior officer, the male officer. He was the
5 trainee. He did not have the experience that
6 Officer Saenz had, but he had been trained at the
7 academy on domestic violence and he was learning
8 from Officer Saenz.

9 He also did a physical inspection of
10 Ms. Heard's face after his boss, essentially,
11 Officer Saenz, had done it, and he also found that
12 she had no marks on her face. Both officers also
13 reported contemporaneously that they saw no signs of
14 any of the property damage, that Ms. Heard has
15 testified to, existed. She said that there was
16 things strewn all over the floor, broken wood.
17 Neither officer saw that. And both officers
18 testified that they had done thorough security
19 sweeps of two of the three penthouses there: One,
20 the penthouse where the incident allegedly occurred;
21 and the other, Ms. Heard used a penthouse for a
22 dressing room. They toured that penthouse as well.

1 And at Officer Hadden's deposition,
2 Ms. Spector objected or commented at pages 9, 11,
3 15, 21, 22, 23, 27, 30, 31, 38 through 43 inclusive,
4 and page 46 and 47. Again, if this issue had been
5 resolved and settlement was inevitable, Ms. Spector
6 would not have wasted all that time on making these
7 objections.

8 Ms. Heard also makes the puzzling claim
9 about a TRO that somehow established that Mr. Depp
10 physically assaulted Ms. Heard that night. What
11 they don't tell the court, and this is inadvertence,
12 was that this was an ex parte TRO. And that's
13 reflected in Exhibit B of their papers. Mr. Depp
14 was not even in Los Angeles at the time she obtained
15 her ex parte TRO. In fact, he was in New York, on
16 route to Australia, to film "Pirates of the
17 Caribbean" 5.

18 But Exhibit B, the TRO, and the two
19 declarations that were attached, only underscores
20 our point that under Rule 4:7, these are the very
21 same issues. As Your Honor has seen, Ms. Heard's
22 declaration, dated May 26th, devotes two-thirds of

1 the declaration to what happened on May 21. Those
2 are paragraphs 9 through 21 that deal with
3 Mr. Depp's alleged assault and all the property
4 damage.

5 And the other declaration that was filed
6 in support of the ex parte TRO was that of
7 Ms. Pennington. And that's attached as Exhibit B to
8 their papers. All of Ms. Pennington's deposition --
9 strike that -- declaration was devoted to what
10 happened that night, what she saw after the fact of
11 Ms. Heard's condition.

12 The cases Ms. Heard cites support
13 allowing the use of the officers' depositions. In
14 fact, Burns v. Gagnon, 283 Va. 657, 2012 case, is
15 exactly on point. There, the Supreme Court of
16 Virginia held that the trial court did not abuse its
17 discretion in finding that the three criteria of
18 Rule 4:7 were met and allowed the testimony from a
19 prior case. Indeed, I would submit that this
20 case -- that case is exactly on point, because what
21 happened in that case was that the trial court
22 allowed testimony of the same two parties involving

1 a fight that they had. So the trial court in the
2 next case said, we're going to allow that testimony
3 about the fight that occurred to be admitted in this
4 case. And the Supreme Court said the trial court
5 did not abuse its discretion. That's exactly what
6 this testimony is about, the fight that occurred.
7 There was certainly a verbal confrontation. There
8 wasn't an actual fight. And so the court admitted
9 that.

10 Azalea Drive-In, from the Eastern
11 District of Virginia, this is their case. I will
12 quote from the court, "Since the same allegations
13 are made here as were made by Azalea in state court,
14 the requirement that the issues be substantially
15 similar is met," and that's 1974 Westlaw 1014, at
16 asterisk 2.

17 The only case that Ms. Heard could cite
18 what was decided the other way, was the Hub case out
19 the Ninth Circuit, a 1982 case. But the Hub case is
20 completely inapposite. The party was seeking to
21 use -- the parties seeking to use the prior
22 deposition. .."failed to show that the deposition

1 relates to issues common to both lawsuits." And
2 that's 682 F.2d at 778.

3 That testimony that was prohibited
4 involved different events entirely. Here, as Your
5 Honor is aware, the testimony relates what happened
6 on May 21, 2016. The very same issue that's at
7 issue here. And it was not even clear in Hub that
8 the parties were the same. I believe, and
9 Mr. Rottenborn can correct me, but I think the
10 parties seeking to use that was a predecessor or
11 successor in interest talking about different
12 exhibits entirely.

13 So very briefly, Your Honor, the court
14 should allow the testimony. It comes from two
15 extremely credible, disinterested, trained
16 professionals. It was made within 2 months of the
17 incident they investigated, which is very much at
18 issue in the case at the time the testimony was
19 given.

20 Indeed, it's probably the most -- well,
21 it's for the finder of fact to decide. It's
22 probably among the most probative testimony in the

1 case because it came from people who had no bias, no
2 perspective, other -- in fact Ms. Saenz testified
3 that even if Ms. Heard had not made a complaint, and
4 she didn't make a complaint, but Officer Saenz
5 testified that she would have charged Mr. Depp
6 anyway if she saw any indicia of injury on
7 Ms. Heard. She would have gone and arrested the
8 person, who she later learned was Mr. Depp, in the
9 absence of her complaint. So this is especially
10 probative.

11 We are not asking, just to be clear, we
12 are not asking the court to preclude Ms. Heard from
13 going back and subpoenaing these officers and
14 deposing them. Indeed, before the court granted the
15 continuance, we subpoenaed these two officers or we
16 issued subpoenas in an abundance of caution,
17 because, of course, we couldn't know how the court
18 was going to rule, either on the continuance or on
19 this motion. But there's no guarantee, Your Honor,
20 that our efforts or that of Ms. Heard, are going to
21 be successful. They've been sent to another place.
22 And the testimony that they would give now, more

1 than 3-1/2 years later is going to be far less
2 accurate and far less probative than it was 2 months
3 after the incident. The best testimony we're ever
4 going to get is found in the prior depositions, less
5 than 2 months after the exhibits --

6 THE COURT: I think your time is just
7 about up.

8 MR. CHEW: Thank you, Your Honor.

9 MR. ROTTENBORN: Good morning, Your
10 Honor. Ben Rottenborn here for Amber Heard.

11 THE COURT: Good morning.

12 MR. ROTTENBORN: I don't believe, as Your
13 Honor pointed out, I don't believe that the
14 extensive characterization of what these police
15 officers testified to is relevant to this motion
16 before the court. So I'm going to focus --

17 THE COURT: I didn't say that. I asked
18 some questions. I have not made a finding that
19 something is relevant or not relevant.

20 MR. ROTTENBORN: Understood, Your Honor.
21 What I'm saying is, I'm going to focus on what the
22 law is, on what Rule 4:7 --

1 THE COURT: That's fine, but I don't like
2 people making statements that I've made rulings I
3 haven't made.

4 MR. ROTTENBORN: My apologies, Your
5 Honor. I did not mean anything by that.

6 I will say the fact that Mr. Depp feels
7 so strongly that these officers' testimony should be
8 admitted without any cross-examination being done,
9 that these prior depositions should be used, I think
10 is strong evidence why the court should deny their
11 motion. We disagree that all three requirements of
12 Rule 4:7 are met, Your Honor, in particular, the
13 requirement that the prior deposition involved the
14 same subject matter. On its face, that seems to be
15 met. But if you look at the cases and how they
16 interpret that requirement, the Azalea Drive-In
17 case, which was cited in Mr. Depp's brief and we
18 cited it as well, says that there must be a finding
19 that the party opponent in the prior action had the
20 same interests and the same motives in examining the
21 deponent that the present deponent has. So that in
22 the divorce case in 2016, July 18th, when these

1 witnesses were deposed, that Ms. Heard's attorneys
2 had the same interests and the same motives to
3 cross-examination or to cross-examine the officers
4 that we do today.

5 In the Hub case, Your Honor, which deals
6 with Federal Rule 32, which is the analog to Rule
7 4:7, the court said that the inquiry focuses on
8 whether the prior cross-examination would satisfy a
9 reasonable party who opposes admission. So, again,
10 the question is whether the cross-examination that
11 was conducted of the officers in 2016 would satisfy
12 Ms. Heard for the purposes of this case today.

13 There's no way that that requirement,
14 under the Azalea case, under the Hub case, is met
15 here. There was no cross-examination in that case,
16 as Your Honor pointed out, or very limited
17 cross-examination of Officer Saenz. And I don't
18 believe any cross-examination of Officer Hadden. A
19 domestic violence restraining order had been issued.
20 Obviously, that was an impetus for the divorce
21 proceedings, but, at this point in the proceedings,
22 the parties were discussing settlement of the

1 divorce. They were discussing the dissolution of
2 their marriage.

3 THE COURT: Well, let me ask you this:
4 If the protective order was issued ex parte, at
5 least in Virginia, that would be a temporary
6 protective order, subject then to a full hearing for
7 a more lasting protective order. Is that not the
8 procedure in California?

9 MR. ROTTENBORN: I'm not aware of the
10 procedure in California, Your Honor. And it may
11 well -- I imagine that that's the case.

12 THE COURT: Well, if that is the case,
13 which I suspect it probably is, then there would be
14 some incentive to cross-examine somebody to see
15 whether you could defeat the permanent protective,
16 the 2-year protective order, wouldn't there?

17 MR. ROTTENBORN: Of course, Your Honor.
18 But my understanding is, at this point, in July of
19 2016, obviously, I wasn't there, I didn't represent
20 Ms. Heard, but my understanding is that the parties
21 were discussing settlement of their marriage and
22 discussing the dissolution of their marriage and the

1 ultimate decree which was issued a few months later.
2 So, for whatever reason, there was no
3 cross-examination that was taken, no meaningful
4 cross-examination in that case.

5 Here, as Your Honor is well aware,
6 whether Mr. Depp abused Ms. Heard, both on the night
7 of May 21st, 2016, and on prior occasions, is the
8 central factual issue that's at issue in this case.
9 And with that as the central issue, there is no way
10 that that prior cross-examination, for whatever
11 reason it was not taken, would satisfy Ms. Heard in
12 this case.

13 THE COURT: Isn't there a high likelihood
14 that the cross-examination this time would focus
15 primarily upon the lapse in time between 2016 and
16 2019 and how accurate the witnesses' memories were
17 because of the lapse of time?

18 MR. ROTTENBORN: That may be an element
19 of it, but I don't think that would be the focus of
20 it, Your Honor. I think the focus of the
21 cross-examination would be to present the extensive
22 evidence that Ms. Heard has and some of which she

1 has compiled since July of 2016, to support what she
2 says happened in that penthouse apartment on that
3 night.

4 THE COURT: So it wouldn't be to
5 cross-examine the officers as to their knowledge,
6 but rather to cross-examine the officers to tell
7 them, did you know about this, did you know about
8 that. Is that what you're telling me?

9 MR. ROTTENBORN: No, no, no, not at all,
10 Your Honor. What we're saying is there were
11 specific questions that were asked by Mr. Depp's
12 attorneys. For whatever reason there was not
13 cross-examination that was taken, but we believe
14 that if those officers are -- you know, obviously,
15 those officers can't vouch for other evidence or
16 other witnesses' statements that they weren't aware
17 of, but when you look at the totality of evidence of
18 what happened that night, some of that may be used
19 to refresh the officers' recollection. Some of it
20 may be used to question them as to how absolute
21 their testimony is. Mr. Depp presents their
22 testimony as if it -- you know, they were closed off

1 to any other possibility, other than Ms. Heard was
2 making this up. We don't believe that's the case.
3 And, frankly, we believe that their deposition
4 testimony -- Officer Hadden says her face was red.

5 So, for example, there could be questions
6 asked, you know, would you necessarily -- because we
7 have photographs that were taken, on or after May
8 21st, of bruising on Ms. Heard's face. And so just,
9 hypothetically, the officers could be asked
10 questions about, you know, would you expect a bruise
11 to form, you know, in the minutes after --

12 THE COURT: So you are going to make
13 these officers, on cross-examination, experts then?

14 MR. ROTTENBORN: No, no, Your Honor.

15 THE COURT: Because, really, all they get
16 to testify to is what did they see and what did they
17 hear. Isn't that pretty much it?

18 MR. ROTTENBORN: Well, yes, Your Honor,
19 but they could certainly admit that, you know, the
20 fact that they didn't see a bruising immediately
21 after the incident, doesn't mean that abuse didn't
22 occur.

1 THE COURT: No, they wouldn't be allowed
2 to testify to that in my courtroom, because that's a
3 medical opinion.

4 MR. ROTTENBORN: Correct, Your Honor, but
5 Mr. Depp is holding them up as people who have taken
6 a hundred calls --

7 THE COURT: He probably wouldn't get
8 everything he wants either. I haven't read the
9 deposition, but any objections that were made to it
10 are subject to the court ruling whether those
11 questions could be answered in front of the jury if
12 it's read to them.

13 MR. ROTTENBORN: Of course, Your Honor.
14 And, really, that's what I'm getting at. These
15 depositions that were taken in 2016 were not taken
16 with a trial in a defamation action in 2020 in mind.
17 There's a way to do this that allows the jury --
18 and, look, as we said in our brief, we do not object
19 to the use of the prior depositions to refresh their
20 memories. Certainly, if we were to take this -- and
21 I'm not saying we would -- to say you don't remember
22 what happened three years ago, then the other side

1 could refresh their recollections with what they
2 testified to in July 2016.

3 Our point is that there wasn't any
4 meaningful cross-examination. That is really the
5 focal point of the court's application of Rule 4:7.
6 There has been extensive evidence --

7 THE COURT: Let me just follow up on
8 that, because I actually had a case like this back
9 when I was in practice and it was very troubling to
10 me. It was a personal injury case and another
11 attorney had defended the property damage part of it
12 and, basically, asked very few questions, and, in my
13 view, not very artfully. And they weren't asked the
14 way I thought I would want to ask them. And I ended
15 up with the result that the plaintiff asks for in
16 this case, which was the judge saying, we don't
17 judge the quality of those questions. And say
18 because you had an attorney who didn't do as good of
19 a job as you would like to have been done, that that
20 means that these rules don't apply. So how do you
21 respond to that? You don't get to say, well, you
22 should have had a better attorney, they should have

1 asked more questions. It's just a question of did
2 they have the opportunity to and did they choose to
3 participate in that hearing.

4 MR. ROTTENBORN: Sure, Your Honor. I'll
5 answer it as best I can, which is to say that under
6 Rule 4:7, in applying that rule of whether or not
7 the deposition, the prior deposition involves the
8 same subject matter, you look to whether a prior
9 cross-examination would satisfy a reasonable party.
10 You look to whether there were the same interests
11 and motives. And, Your Honor, we don't believe --
12 we weren't on the scene in 2016, but we don't
13 believe that Ms. Heard's attorneys' interests and
14 motives in cross-examining these officers for the
15 purpose of resolving a divorce case were the same as
16 the motives that we have for cross-examining
17 officers in this defamation action.

18 THE COURT: Let me back you up, because I
19 think you may have misspoken. You said that Rule
20 4:7 says something. There are cases that interpret
21 Rule 4:7, but Rule 4:7, I don't think it says that
22 they have to ask all of the questions that you'd

1 like for them to ask or that even has to be
2 meaningful. I don't find that in the rule itself.
3 Isn't that more the interpretation by some judges of
4 how they would like to have it done?

5 MR. ROTTENBORN: Yes, Your Honor. That's
6 all I meant by that. There's very few cases that
7 interpret Rule 4:7. And, in those cases, they seem
8 to suggest that to determine whether a case involves
9 the same subject matter requires looking at the
10 interests and motives.

11 I will give Your Honor one more example.
12 We just obtained, maybe two or three days ago, and
13 we'll produce it to the other side as we're required
14 to do, we obtained through a subpoena some body cam
15 footage from -- there were two sets of officers that
16 came that night. The first, I believe the first
17 were Officers Saenz and Hadden. And then there was
18 another set of officers. We obtained the body cam
19 footage from the second set of officers. And just
20 by way of example, there appears to be some objects
21 in the hallway outside the penthouse, so -- that is
22 reflected in the body cam footage. These officers

1 testified that, I believe, that they didn't see
2 anything in the hallway. So it would be fair game,
3 on cross-examination, to show this body cam footage
4 and to ask them if they, you know, is it possible
5 you may have missed this object that we see in the
6 hallway, that sort of thing. And I think that would
7 be ultimately more helpful to the jury to hear
8 witnesses who testify who are subject to
9 cross-examination. And I know Your Honor knows both
10 parties well enough to know, you know, there will be
11 cross-examination here. We're not going to waive
12 the cross-examination of these witnesses in this
13 case. And so I just use that as an example of what
14 I think would be a helpful thing to cross-examine
15 these officers about, that, you know, obviously,
16 both sides could make admissibility arguments, but I
17 think wouldn't get into medical expert testimony, it
18 wouldn't be talking about their recollection and how
19 it may have eroded over three years, but it would be
20 to just ask them, is it possible you missed this?
21 And I think that that would be helpful to the jury,
22 rather than these --

1 THE COURT: Well, why do you need to ask
2 isn't it possible you missed it, if you've got a
3 video. It's right there. You tell the jury, they
4 missed this.

5 MR. ROTTENBORN: Of course, Your Honor.
6 Of course.

7 THE COURT: I'm sorry. I don't mean to
8 fence with you.

9 MR. ROTTENBORN: No. I'm done.

10 THE COURT: You understand --

11 MR. ROTTENBORN: I understand.

12 THE COURT: I think you understand the
13 nature of what I'm asking the question about.

14 MR. ROTTENBORN: Yes, Your Honor.

15 THE COURT: Okay.

16 All right. The motion to use the prior
17 depositions is granted, subject to any objections
18 that were made and maybe even objections that might
19 be made to questions that were improper at that
20 time. But I find that the requirements of Rule 4:7
21 have been met. I also think it is significant that
22 the timing of when those depositions are taken, as

1 opposed to coming to trial four years later, those
2 are things for everybody to be mindful of.

3 This is not to preclude either party from
4 taking the deposition of the officers and that can
5 be presented in whatever fashion is consistent with
6 the rules. So we need to do an order that reflects
7 that.

8 Now, before you all go, at our last
9 hearing in calendar control, we talked about whether
10 or not someone was going to try to make press
11 releases about why the case was continued. And
12 representation I had from both counsel was that they
13 could control everybody and those representations
14 would not be in the press. Yet, that turned out not
15 to be correct. So does anybody have some
16 explanation they'd like to give me for that?

17 MR. ROTTENBORN: Your Honor, I don't have
18 an explanation that I'd like to give you, other than
19 we sent a letter to the court when we believed --
20 you know, part of what we're fighting here is that
21 every time something happens in this case --

22 THE COURT: What I'm referring to

1 specifically is, and I didn't read it, but it was
2 conveyed to me that there was something put in the
3 press that the reason it was continued was because
4 Mr. Depp was late providing his medical records.
5 That wasn't the subject of our conversations at all.
6 That wasn't the reason that the court granted the
7 continuance. It was granted at the request of both
8 parties because of what were reported to me to be
9 difficulties taking depositions of people taken in
10 California. So I can only suspect that it is
11 someone on the defense's side that made that press
12 release.

13 MR. ROTTENBORN: Your Honor, I have no
14 idea how that statement was conveyed to anyone in
15 the press. I certainly did not convey that.

16 THE COURT: Well, if that type of thing
17 happens and it's pro hac vice counsel responsible
18 for it, their pro hac vice privileges will be
19 revoked. And it may be the entire firm would be
20 revoked if it's only one person from that firm.
21 We're going to make that clear that if I tell you
22 something, and then if counsel agrees to something,

1 and that those things are accurate, we're not going
2 to have something inaccurate placed in the press for
3 advantage.

4 MR. QUINN: Your Honor, if I may, John
5 Quinn from Kaplan Hecker. I can assure the court
6 that no statement was made by defense counsel to the
7 press. I can't speak to what reporters may have
8 concluded from papers that have been filed. But I
9 can assure the court that there were indeed
10 inquiries. The categorical response from all
11 defense counsel was no comment, consistent with our
12 discussion, Your Honor. There was no other
13 statement provided to the court [sic] by defense
14 counsel. I can assure the court of that.

15 THE COURT: Well, you are well aware of
16 my position on this.

17 MR. QUINN: Absolutely, Your Honor.

18 MR. ROTTENBORN: Yes, Your Honor.

19 THE COURT: Thank you all.

20 (The hearing was concluded at 11:30 a.m.)
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CERTIFICATE OF SHORTHAND REPORTER

I, Theresa R. Hollister, the court reporter before whom the foregoing hearing was taken, do hereby certify that the foregoing transcript is a true and correct record of the testimony given; that said testimony was taken by me stenographically and thereafter reduced to typewriting under my supervision; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

Theresa R. Hollister



Theresa R. Hollister
Court Reporter